

2023:PHHC:070814

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 215

CRM-M-43590-2022

Date of decision : 16.05.2023

Gulam Rasool and another

..... Petitioners

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Liaqat Ali, Advocate, for the petitioners.

Mr.Arun Luthra, DAG, Punjab.

Ms.Nisha Rana, Advocate, for the complainant.

DEEPAK SIBAL, J. (ORAL)

(1) Through the present petition filed under Section 439 Cr.P.C. the petitioners seek regular bail in FIR No.81 dated 22.04.2022 registered under Sections 302, 307, 324, 323, 148, 149 and 120-B IPC at Police Station Tanda, District Hoshiarpur.

(2) Briefly stated, the case of the prosecution is that on 21.04.2022, at about 8 p.m., on raising of a *lalkara* by Sheru son of Lal Hussain, the petitioners alongwith Mohd.Rafi, Mohd. Sharif, Abdulla, Mohd. Rashid and Ahmed Nabi attacked the complainant party leading to the murder of Talib Hussain and injuries to Murtaza Ali, Abdul Ali and Reham Ali.

(3) Learned counsel for the petitioners contends that the petitioners have been falsely implicated in this case; they have no other criminal antecedents; they are in custody since 22.04.2022 and 27.04.2022 respectively; the petitioners' trial is being delayed on account of filing of an application under Section 319 Cr.P.C. to summon Sheru and Mohd. Rashid to face trial alongwith the petitioners;

petitioner No.1 is not attributed any injury whereas petitioner No.2 is attributed a simple injury to one of the injured-Reham Ali which injury has been declared to be simple and that since after the decision of the application filed under Section 319 Cr.P.C., 21 prosecution witnesses are still to be examined, the petitioners' trial shall take a long time to conclude.

(4) Learned State counsel as also learned counsel for the complainant oppose grant of bail to the petitioners on the ground that the injured are yet to be fully examined in the petitioners' trial and that if released on bail, the petitioners may influence their trial and/or may flee from justice.

(5) Learned counsel for the parties have been heard and with their able assistance the record of the case has also been perused.

(6) The petitioners are in custody since April, 2022; they have no other criminal antecedents; the petitioners are not attributed any injury to the deceased; in fact, petitioner No.1 is not attributed any injury whereas petitioner No.2 is attributed only a simple injury to one of the injured namely Reham Ali; after the injured persons had been examined in chief an application under Section 319 Cr.P.C. has been filed seeking therein to summon Sheru and Mohd. Rashid and that since thereafter 21 prosecution witnesses remain to be examined in the petitioners' trial the same is likely to take a long time to conclude.

(7) In view of the above, the present case is considered to be a fit one in which the petitioners be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Hoshiarpur, the petitioners are directed to be released on bail.

(8) It is clarified that the above observations have been made only for the limited purpose of deciding the present petition and the same would not be construed to be an expression of opinion on the merits of the case.

(9) It is further directed that while on bail the petitioners shall own and possess smart mobile phones which shall be kept on at all times; the phones shall always be with the petitioners; they shall share the number of the phones as also their location with the SHO of the area where the petitioners normally reside; they shall mark their attendance on the 1st of each month in the concerned police station and that they shall also not leave the jurisdiction of the concerned police station without the prior permission of the SHO of such police station.

16.05.2023
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No